

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

UNITED STATES OF AMERICA :
: File No. 1:07-CR-03-01
v. :
: CRAIG BETHEA :
: _____ :
:

RULING ON DEFENDANT'S MOTION TO SUPPRESS
(Paper 47)

The Court previously determined the electronic monitoring conducted by state law enforcement officers between January 20 and 25, 2006 did not run afoul of the Federal Wiretap Statute, 18 U.S.C. § 2510. (Paper 37 at 7-8). With new counsel, Defendant now challenges the constitutionality of the electronic monitoring under Vermont state law.

As correctly argued by the government, however, the Second Circuit has squarely held that federal law, not state law, should govern federal prosecutions, even where the evidence at issue was the sole product of a state investigation. United States v. Pforzheimer, 826 F.2d 200, 204 (2d Cir. 1987); see also United States v. Rodriguez, 169 F. Supp. 2d 319, 326-27 (D. Vt. 2001) (declining to invoke state law in a federal criminal case because after United States v. Sotomayor, 592 F.2d 1219 (2d Cir. 1979) "the Second Circuit's [] precedents do not require law

enforcement officials to comply with state standards before evidence can be admitted in a federal criminal proceeding").

Accordingly, this being a federal prosecution, state law does not apply and Defendant's Motion to Suppress (Paper 47) is DENIED.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 23rd day of April, 2008.

/s/ J. Garvan Murtha

J. Garvan Murtha
United States District Judge